



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB0230

Introduced 1/19/2007, by Rep. Mary E. Flowers

SYNOPSIS AS INTRODUCED:

See Index

Amends the Personnel Code. Establishes a preference in the form of an entitlement to appear on the list of those eligible for appointments, if the person otherwise qualifies through testing for a person if: (i) he or she has been discharged from a prison of this State; (ii) he or she has been wrongfully accused of a crime for which he or she was imprisoned; and (iii) either a court of competent jurisdiction finds that the evidence that resulted in his or her conviction was erroneous or that new evidence indicates that the person did not commit the crime for which he or she was imprisoned or the accused received a pardon from the Governor stating that such pardon is issued on the ground of innocence of the crime for which he or she was imprisoned. Amends the Department of Commerce and Economic Opportunity Law of the Civil Administrative Code of Illinois. Provides that the Department of Commerce and Economic Opportunity shall establish an individualized job training and continuing education program for each person who has been discharged from a prison of this State; and who has been wrongfully accused of a crime for which he or she was imprisoned; and whom either a court of competent jurisdiction finds that the evidence that resulted in his or her conviction was erroneous or that new evidence indicates that the person did not commit the crime for which he or she was imprisoned or the person received a pardon from the Governor stating that such pardon is issued on the ground of innocence of the crime for he or she was imprisoned. Amends the Court of Claims Act. Grants the court exclusive jurisdiction in those cases. Increases the maximum statutory awards to a person released from prison because of these factors. Effective immediately.

LRB095 04122 RLC 24549 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning imprisonment.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Personnel Code is amended by adding Section
5 8b.7-5 as follows:

6 (20 ILCS 415/8b.7-5 new)

7 Sec. 8b.7-5. Unjustly imprisoned preference.

8 (a) A person shall be qualified for a preference in
9 entrance examinations if: (i) he or she has been discharged
10 from a prison of this State; (ii) he or she has been wrongfully
11 accused of a crime for which he or she was imprisoned; and
12 (iii) either a court of competent jurisdiction finds that the
13 evidence that resulted in his or her conviction was erroneous
14 or that new evidence indicates that the person did not commit
15 the crime for which he or she was imprisoned or the accused
16 received a pardon from the Governor stating that such pardon is
17 issued on the ground of innocence of the crime for which he or
18 she was imprisoned.

19 (b) The preference granted under this Section shall be in
20 the form of an entitlement to appear on the list of those
21 eligible for appointments, if the person otherwise qualifies
22 through testing.

23 (c) The Department of Central Management Services shall

1 adopt rules and implement procedures to verify that any person
2 seeking a preference under this Section provides documentation
3 or executes any consents or other documents required by the
4 Department of Central Management Services or any other State
5 Department or agency to enable that Department or agency to
6 verify that the person is entitled to the preference.

7 Section 10. The Department of Commerce and Economic
8 Opportunity Law of the Civil Administrative Code of Illinois is
9 amended by adding Section 605-416 as follows:

10 (20 ILCS 605/605-416 new)

11 Sec. 605-416. Persons unjustly imprisoned; job training
12 and continuing education. The Department shall establish an
13 individualized job training and continuing education program
14 for each person if he or she has been discharged from a prison
15 of this State; and if he or she has been wrongfully accused of
16 a crime for which he or she was imprisoned; and if either a
17 court of competent jurisdiction finds that the evidence that
18 resulted in his or her conviction was erroneous or that new
19 evidence indicates that the person did not commit the crime for
20 which he or she was imprisoned or the person received a pardon
21 from the Governor stating that such pardon is issued on the
22 ground of innocence of the crime for he or she was imprisoned.

23 Section 15. The Court of Claims Act is amended by changing

1 Sections 8, 11, 22, and 24 and by adding Section 24.5 as
2 follows:

3 (705 ILCS 505/8) (from Ch. 37, par. 439.8)

4 Sec. 8. Court of Claims jurisdiction. The court shall have
5 exclusive jurisdiction to hear and determine the following
6 matters:

7 (a) All claims against the State founded upon any law of
8 the State of Illinois or upon any regulation adopted thereunder
9 by an executive or administrative officer or agency; provided,
10 however, the court shall not have jurisdiction (i) to hear or
11 determine claims arising under the Workers' Compensation Act or
12 the Workers' Occupational Diseases Act, or claims for expenses
13 in civil litigation, or (ii) to review administrative decisions
14 for which a statute provides that review shall be in the
15 circuit or appellate court.

16 (b) All claims against the State founded upon any contract
17 entered into with the State of Illinois.

18 (c) All claims against the State for time unjustly served
19 in prisons of this State when ~~where~~ the person ~~persons~~
20 imprisoned (i) was wrongfully accused of the crime for which he
21 or she was imprisoned and a court of competent jurisdiction
22 finds that the evidence that resulted in his or her conviction
23 was erroneous or that new evidence indicates that the person
24 did not commit the crime for which he or she was imprisoned, or
25 (ii) the accused received ~~shall receive~~ a pardon from the

1 governor stating that such pardon is issued on the ground of
2 innocence of the crime for which they were imprisoned;
3 provided, the amount of the award is at the discretion of the
4 court; and provided, the court shall make no award in excess of
5 the following amounts: for imprisonment of 5 years or less, not
6 more than \$85,350 ~~\$15,000~~; for imprisonment of 14 years or less
7 but over 5 years, not more than \$170,000 ~~\$30,000~~; for
8 imprisonment of over 14 years, not more than \$199,150 ~~\$35,000~~;
9 and provided further, the court shall fix attorney's fees not
10 to exceed 25% of the award granted. On or after the effective
11 date of this amendatory Act of the 95th General Assembly, On
12 ~~December 31, 1996, the court shall make a one-time adjustment~~
13 ~~in the maximum awards authorized by this subsection (c), to~~
14 ~~reflect the increase in the cost of living from the year in~~
15 ~~which these maximum awards were last adjusted until 1996, but~~
16 ~~with no annual increment exceeding 5%. Thereafter,~~ the court
17 shall annually adjust the maximum awards authorized by this
18 subsection (c) to reflect the increase, if any, in the Consumer
19 Price Index For All Urban Consumers for the previous calendar
20 year, as determined by the United States Department of Labor,
21 except that no annual increment may exceed 5%. For ~~both~~ the
22 ~~one-time adjustment and the subsequent~~ annual adjustments, if
23 the Consumer Price Index decreases during a calendar year,
24 there shall be no adjustment for that calendar year. The
25 changes made by this amendatory Act of the 95th General
26 Assembly apply to all claims pending on or filed on or after

1 the effective date. ~~The changes made by Public Act 89-689 apply~~
2 ~~to all claims filed on or after January 1, 1995 that are~~
3 ~~pending on December 31, 1996 and all claims filed on or after~~
4 ~~December 31, 1996.~~

5 (d) All claims against the State for damages in cases
6 sounding in tort, if a like cause of action would lie against a
7 private person or corporation in a civil suit, and all like
8 claims sounding in tort against the Medical Center Commission,
9 the Board of Trustees of the University of Illinois, the Board
10 of Trustees of Southern Illinois University, the Board of
11 Trustees of Chicago State University, the Board of Trustees of
12 Eastern Illinois University, the Board of Trustees of Governors
13 State University, the Board of Trustees of Illinois State
14 University, the Board of Trustees of Northeastern Illinois
15 University, the Board of Trustees of Northern Illinois
16 University, the Board of Trustees of Western Illinois
17 University, or the Board of Trustees of the Illinois
18 Mathematics and Science Academy; provided, that an award for
19 damages in a case sounding in tort, other than certain cases
20 involving the operation of a State vehicle described in this
21 paragraph, shall not exceed the sum of \$100,000 to or for the
22 benefit of any claimant. The \$100,000 limit prescribed by this
23 Section does not apply to an award of damages in any case
24 sounding in tort arising out of the operation by a State
25 employee of a vehicle owned, leased or controlled by the State.
26 The defense that the State or the Medical Center Commission or

1 the Board of Trustees of the University of Illinois, the Board
2 of Trustees of Southern Illinois University, the Board of
3 Trustees of Chicago State University, the Board of Trustees of
4 Eastern Illinois University, the Board of Trustees of Governors
5 State University, the Board of Trustees of Illinois State
6 University, the Board of Trustees of Northeastern Illinois
7 University, the Board of Trustees of Northern Illinois
8 University, the Board of Trustees of Western Illinois
9 University, or the Board of Trustees of the Illinois
10 Mathematics and Science Academy is not liable for the
11 negligence of its officers, agents, and employees in the course
12 of their employment is not applicable to the hearing and
13 determination of such claims.

14 (e) All claims for recoupment made by the State of Illinois
15 against any claimant.

16 (f) All claims pursuant to the Line of Duty Compensation
17 Act.

18 (g) All claims filed pursuant to the Crime Victims
19 Compensation Act.

20 (h) All claims pursuant to the Illinois National
21 Guardsman's Compensation Act.

22 (i) All claims authorized by subsection (a) of Section
23 10-55 of the Illinois Administrative Procedure Act for the
24 expenses incurred by a party in a contested case on the
25 administrative level.

26 (Source: P.A. 93-1047, eff. 10-18-04.)

1 (705 ILCS 505/11) (from Ch. 37, par. 439.11)

2 Sec. 11. Filing claims.

3 (a) Except as otherwise provided in subsection (b) of this
4 Section and subsection (3) of Section 24, the claimant shall in
5 all cases set forth fully in his petition the claim, the action
6 thereon, if any, on behalf of the State, what persons are
7 owners thereof or interested therein, when and upon what
8 consideration such persons became so interested; that no
9 assignment or transfer of the claim or any part thereof or
10 interest therein has been made, except as stated in the
11 petition; that the claimant is justly entitled to the amount
12 therein claimed from the State of Illinois, after allowing all
13 just credits; and that claimant believes the facts stated in
14 the petition to be true. The petition shall be verified, as to
15 statements of facts, by the affidavit of the claimant, his
16 agent, or attorney.

17 (b) Whenever a person who has served a term of imprisonment
18 and has been discharged from prison because a court of
19 competent jurisdiction has found that the evidence that
20 resulted in the person's conviction was erroneous or that new
21 evidence indicates that the person did not commit the crime for
22 which he or she was convicted, the clerk of the court of
23 competent jurisdiction shall transmit this information to the
24 clerk of the Court of Claims. Whenever a person who has served
25 a term of imprisonment and has received a pardon by the

1 Governor stating that such pardon was issued on the ground of
2 innocence of the crime for which he or she was imprisoned, the
3 Governor shall transmit this information to the clerk of the
4 Court of Claims. The clerk of the Court of Claims shall
5 immediately docket the case for consideration by the Court of
6 Claims. The Court of Claims shall hear the case and render a
7 decision within 90 days after its docketing. The transmission
8 by the clerk of the court of competent jurisdiction or by the
9 Governor of the information described in this subsection (b) to
10 the clerk of the Court of Claims is conclusive evidence of the
11 validity of the claim.

12 (Source: Laws 1945, p. 660.)

13 (705 ILCS 505/22) (from Ch. 37, par. 439.22)

14 Sec. 22. Every claim cognizable by the Court and not
15 otherwise sooner barred by law shall be forever barred from
16 prosecution therein unless it is filed with the Clerk of the
17 Court within the time set forth as follows:

18 (a) All claims arising out of a contract must be filed
19 within 5 years after it first accrues, saving to minors, and
20 persons under legal disability at the time the claim accrues,
21 in which cases the claim must be filed within 5 years from the
22 time the disability ceases.

23 (b) All claims cognizable against the State by vendors of
24 goods or services under "The Illinois Public Aid Code",
25 approved April 11, 1967, as amended, must file within one year

1 after the accrual of the cause of action, as provided in
2 Section 11-13 of that Code.

3 (c) All claims arising under paragraph (c) of Section 8 of
4 this Act must be automatically heard by the court ~~filed~~ within
5 120 days ~~2 years~~ after the person unjustly imprisoned ~~asserting~~
6 ~~such claim~~ is discharged from prison without the person
7 unjustly imprisoned being required to file a petition under
8 Section 11 of this Act ~~, or is granted a pardon by the~~
9 ~~Governor, whichever occurs later, except as otherwise provided~~
10 ~~by the Crime Victims Compensation Act.~~

11 (d) All claims arising under paragraph (f) of Section 8 of
12 this Act must be filed within one year of the date of the death
13 of the law enforcement officer or fireman as provided in
14 Section 3 of the "Law Enforcement Officers and Firemen
15 Compensation Act", approved September 30, 1969, as amended.

16 (e) All claims arising under paragraph (h) of Section 8 of
17 this Act must be filed within one year of the date of the death
18 of the guardsman or militiaman as provided in Section 3 of the
19 "Illinois National Guardsman's and Naval Militiaman's
20 Compensation Act", approved August 12, 1971, as amended.

21 (f) All claims arising under paragraph (g) of Section 8 of
22 this Act must be filed within one year of the crime on which a
23 claim is based as provided in Section 6.1 of the "Crime Victims
24 Compensation Act", approved August 23, 1973, as amended.

25 (g) All claims arising from the Comptroller's refusal to
26 issue a replacement warrant pursuant to Section 10.10 of the

1 State Comptroller Act must be filed within 5 years after the
2 issue date of such warrant.

3 (h) All other claims must be filed within 2 years after it
4 first accrues, saving to minors, and persons under legal
5 disability at the time the claim accrues, in which case the
6 claim must be filed within 2 years from the time the disability
7 ceases.

8 (i) The changes made by this amendatory Act of 1989 shall
9 apply to all warrants issued within the 5 year period preceding
10 the effective date of this amendatory Act of 1989.

11 (j) All time limitations established under this Act and the
12 rules promulgated under this Act shall be binding and
13 jurisdictional, except upon extension authorized by law or rule
14 and granted pursuant to a motion timely filed.

15 (Source: P.A. 86-458.)

16 (705 ILCS 505/24) (from Ch. 37, par. 439.24)

17 Sec. 24. Payment of awards.

18 (1) From funds appropriated by the General Assembly for the
19 purposes of this Section the Court may direct immediate payment
20 of:

21 (a) All claims arising solely as a result of the
22 lapsing of an appropriation out of which the obligation
23 could have been paid.

24 (b) All claims pursuant to the "Law Enforcement
25 Officers and Firemen Compensation Act", approved September

1 30, 1969, as amended.

2 (c) All claims pursuant to the "Illinois National
3 Guardsman's and Naval Militiaman's Compensation Act",
4 approved August 12, 1971, as amended.

5 (d) All claims pursuant to the "Crime Victims
6 Compensation Act", approved August 23, 1973, as amended.

7 (e) All other claims wherein the amount of the award of
8 the Court is less than \$5,000.

9 (2) The court may, from funds specifically appropriated
10 from the General Revenue Fund for this purpose, direct the
11 payment of awards less than \$50,000 solely as a result of the
12 lapsing of an appropriation originally made from any fund held
13 by the State Treasurer. For any such award paid from the
14 General Revenue Fund, the court shall thereafter seek an
15 appropriation from the fund from which the liability originally
16 accrued in reimbursement of the General Revenue Fund.

17 (3) From funds appropriated by the General Assembly for the
18 purposes of paying claims under paragraph (c) of Section 8, the
19 court must direct payment of each claim and the payment must be
20 received by the claimant within 60 days after the date that the
21 funds are appropriated for that purpose.

22 (Source: P.A. 92-357, eff. 8-15-01.)

23 (705 ILCS 505/24.5 new)

24 Sec. 24.5. Reimbursement by county. Except in cases
25 initiated by the Attorney General, in the case of an unjust

1 imprisonment where a judgment has been rendered against the
2 State under this Act in favor of a person who was unjustly
3 imprisoned, the county where the case for the imprisonment
4 originated shall reimburse the State for the full amount of the
5 judgment.

6 This amendatory Act of the 95th General Assembly shall
7 apply to causes of action filed on or after its effective date.

8 Section 99. Effective date. This Act takes effect upon
9 becoming law.

1		INDEX
2		Statutes amended in order of appearance
3	20 ILCS 415/8b.7-5 new	
4	20 ILCS 605/605-416 new	
5	705 ILCS 505/8	from Ch. 37, par. 439.8
6	705 ILCS 505/11	from Ch. 37, par. 439.11
7	705 ILCS 505/22	from Ch. 37, par. 439.22
8	705 ILCS 505/24	from Ch. 37, par. 439.24
9	705 ILCS 505/24.5 new	